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6050P.00-00

From:

Sent: Thursday, May 05, 2011 12:02:11 PM

To:

Cc:

Subject: Reporting requirements - county tax lien

Hi

We have looked into your question concerning the reporting requirements of a county related to a tax lien foreclosure sale. For the reasons below, we do not think the county is required to issue a Form 1099-S, Form 1099-A, or Form 1099-C to the former property owner whose land was sold.

We do not think the situation here is reportable under any of the possibly applicable statutes. First, regarding section 6050P, Returns Relating to Cancellation of Indebtedness by Certain Entities, I agree with you that section does not apply. A state or local government is not included within the definition of "an executive, judicial, or legislative entity" under section 6050P(c)(1)(A) based on 31 U.S.C. sec. 3701 and the Instructions to Form 1099. Second, regarding section 6050J, we do not think that section applies either. Based on our reading of the statute, regulations, and Instructions to Form 1099-A, we do not think the county holding the tax lien is a lender within the meaning of the statute.

The third possibility, raised initially by your office, is section 6045(e), dealing with reporting of certain real estate transactions. On its face, section 6045(e) would seem to apply here. The Regulations, however, carve out from the statute's reporting requirements "transfers in full or partial satisfaction of any indebtedness secured by the property so transferred including a foreclosure, transfer in lieu of a foreclosure or an abandonment." Accordingly, under the Regulations, the transaction here is not reportable. We note that when the Regulations under section 6045(e) were originally issued as Temporary Regulations in 1987, they carved out "Transactions reportable under section 6050J." That exception was modified in 1990 when the Service issued Proposed Regulations containing the exemption stated above. The Final Regulations adopted that language without change at section 1.6045-4(c)(1)(ii). Note that the language adopted in the final regulations is significantly broader than the language used in the Temp Regs.

Accordingly, we conclude that the transaction in your fact pattern is not reportable under the sections discussed above and therefore the county is not required to issue a Form 1099 pursuant to those sections.

If you have further questions, please let know.